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Attorneys for Plaintiff
JOHN KRISTENSEN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOHN KRISTENSEN, Individually and) Case No.

On Behalf of All Others Similarly)

Situated,)

Plaintiff,)

vs.)

LCF GROUP, LLC,)

Defendant.)

**CLASS ACTION COMPLAINT
FOR DAMAGES AND DEMAND
FOR JURY TRIAL**

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of LCF GROUP, LLC (“Defendant”),

1 in negligently, knowingly, and/or willfully contacting Plaintiff and on Plaintiff's
2 cellular telephone in violation of the Telephone Consumer Protection Act, 47.
3 *U.S.C. § 227 et seq.* ("TCPA"), thereby invading Plaintiff's privacy.

4 **JURISDICTION & VENUE**

5 2. Jurisdiction is proper as Plaintiff seeks redress under a federal statute,
6 thus this Court has jurisdiction as this matter involves questions of federal law.

7 3. Venue is proper in the United States District Court for the Central
8 District of California pursuant to *18 U.S.C. 1391(b)* and *18 U.S.C. § 1441(a)*
9 because Defendant does business within the state of California and the Central
10 District of California and Plaintiff resides within this district.

11 **PARTIES**

12 4. Plaintiff, JOHN KRISTENSEN ("Plaintiff"), is a natural person
13 residing in Los Angeles County, California and is a "person" as defined by 47
14 *U.S.C. § 153 (10)*.

15 5. Defendant, LCF GROUP, LLC ("Defendant"), is a limited liability
16 company engaged in the business of lending business capital loans to business
17 owners nationwide with its state of incorporation and its corporate headquarters in
18 the State of New York and is a "person" as defined by *47 U.S.C. § 153 (10)*.

19 **FACTUAL ALLEGATIONS**

20 6. Beginning in or around March of 2015, Defendant began placing
21 autodialed telephone calls to Plaintiff's cellular telephone number ending in 9711,
22 which Plaintiff has possessed exclusively for approximately four (4) years.

23 7. To date, Defendant has placed at least two (2) such autodialed
24 solicitation calls to Plaintiff's cellular telephone on or about March 30, 2015 and
25 again on or about April 17, 2015.

26 8. Defendant placed its calls from the following, though not exclusively,
27 telephone number (253) 245-2251.

28 9. The purpose of Defendant's call was to attempt to solicit Plaintiff into

1 applying for a business capital loan.

2 10. Defendant used an “automatic telephone dialing system”, as defined
3 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit Plaintiff’s
4 business.

5 11. Defendant’s call constituted a call that was not for emergency
6 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

7 12. Defendant’s call was placed to a telephone number assigned to a
8 cellular telephone service for which Plaintiff incurs a charge for incoming calls
9 pursuant to 47 U.S.C. § 227(b)(1).

10 13. Plaintiff has no business relationship with Defendant whatsoever and
11 never provided Defendant with his cellular telephone number for any purpose.
12 Accordingly, Defendant did not have Plaintiff’s “prior express consent” to receive
13 calls using an automatic telephone dialing system on his cellular telephone pursuant
14 to 47 U.S.C. § 227(b)(1)(A).

15 **CLASS ALLEGATIONS**

16 14. Plaintiff brings this action on behalf of himself and all others similarly
17 situated, as a member of the proposed class (hereafter “The Class”) defined as
18 follows:

19 All persons within the United States who received any
20 telephone call from Defendant or Defendant’s agent/s
21 and/or employee/s to said person’s cellular telephone
22 made through the use of any automatic telephone dialing
23 system within the four years prior to the filing of this
24 Complaint

25 15. Plaintiff represents, and is a member of, The Class, consisting of All
26 persons within the United States who received any telephone call from Defendant
27 or Defendant’s agent/s and/or employee/s to said person’s cellular telephone made
28 through the use of any automatic telephone dialing system within the four years

1 prior to the filing of this Complaint.

2 16. Defendant, its employees and agents are excluded from The Class.
3 Plaintiff does not know the number of members in The Class, but believes the Class
4 members number in the hundreds, if not more. Thus, this matter should be certified
5 as a Class Action to assist in the expeditious litigation of the matter.

6 17. The Class is so numerous that the individual joinder of all of its
7 members is impractical. While the exact number and identities of The Class
8 members are unknown to Plaintiff at this time and can only be ascertained through
9 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
10 The Class includes thousands of members. Plaintiff alleges that The Class
11 members may be ascertained by the records maintained by Defendant.

12 18. Plaintiff and members of The Class were harmed by the acts of
13 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
14 and Class members via their cellular telephones thereby causing Plaintiff and Class
15 members to incur certain charges or reduced telephone time for which Plaintiff and
16 Class members had previously paid by having to retrieve or administer messages
17 left by Defendant during those illegal calls, and invading the privacy of said
18 Plaintiff and Class members.

19 19. Common questions of fact and law exist as to all members of The
20 Class which predominate over any questions affecting only individual members of
21 The Class. These common legal and factual questions, which do not vary between
22 Class members, and which may be determined without reference to the individual
23 circumstances of any Class members, include, but are not limited to, the following:

- 24 a. Whether, within the four years prior to the filing of this
25 Complaint, Defendant made any telephone call (other than a
26 call made for emergency purposes or made with the prior
27 express consent of the called party) to a Class member using
28 any automatic telephone dialing system to any telephone

1 number assigned to a cellular telephone service;

2 b. Whether Plaintiff and the Class members were damaged
3 thereby, and the extent of damages for such violation; and

4 c. Whether Defendant should be enjoined from engaging in such
5 conduct in the future.

6 20. As a person that received a call from Defendant using an automatic
7 telephone dialing system, without Plaintiff's prior express consent, Plaintiff is
8 asserting claims that are typical of The Class.

9 21. Plaintiff will fairly and adequately protect the interests of the members
10 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
11 class actions.

12 22. A class action is superior to other available methods of fair and
13 efficient adjudication of this controversy, since individual litigation of the claims
14 of all Class members is impracticable. Even if every Class member could afford
15 individual litigation, the court system could not. It would be unduly burdensome
16 to the courts in which individual litigation of numerous issues would proceed.
17 Individualized litigation would also present the potential for varying, inconsistent,
18 or contradictory judgments and would magnify the delay and expense to all parties
19 and to the court system resulting from multiple trials of the same complex factual
20 issues. By contrast, the conduct of this action as a class action presents fewer
21 management difficulties, conserves the resources of the parties and of the court
22 system, and protects the rights of each Class member.

23 23. The prosecution of separate actions by individual Class members
24 would create a risk of adjudications with respect to them that would, as a practical
25 matter, be dispositive of the interests of the other Class members not parties to such
26 adjudications or that would substantially impair or impede the ability of such non-
27 party Class members to protect their interests.

28 24. Defendant has acted or refused to act in respects generally applicable

1 to The Class, thereby making appropriate final and injunctive relief with regard to
2 the members of the California Class as a whole.

3 **FIRST CAUSE OF ACTION**

4 **Negligent Violations of the Telephone Consumer Protection Act**

5 **47 U.S.C. §227 et seq.**

6 25. Plaintiff repeats and incorporates by reference into this cause of
7 action the allegations set forth above at Paragraphs 1-25.

8 26. The foregoing acts and omissions of Defendant constitute numerous
9 and multiple negligent violations of the TCPA, including but not limited to each
10 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

11 27. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
12 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
13 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

14 28. Plaintiff and the Class members are also entitled to and seek
15 injunctive relief prohibiting such conduct in the future.

16 **SECOND CAUSE OF ACTION**

17 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

18 **Act**

19 **47 U.S.C. §227 et seq.**

20 29. Plaintiff repeats and incorporates by reference into this cause of
21 action the allegations set forth above at Paragraphs 1-29.

22 30. The foregoing acts and omissions of Defendant constitute numerous
23 and multiple knowing and/or willful violations of the TCPA, including but not
24 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
25 *seq.*

26 31. As a result of Defendant's knowing and/or willful violations of *47*
27 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
28 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*

1 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

2 32. Plaintiff and the Class members are also entitled to and seek
3 injunctive relief prohibiting such conduct in the future.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

6 **FIRST CAUSE OF ACTION**

7 **Negligent Violations of the Telephone Consumer Protection Act**

8 **47 U.S.C. §227 et seq.**

- 9 • As a result of Defendant's negligent violations of 47 U.S.C.
10 §227(b)(1), Plaintiff and the Class members are entitled to and
11 request \$500 in statutory damages, for each and every violation,
12 pursuant to 47 U.S.C. 227(b)(3)(B).
13 • Injunctive relief.
14 • Any and all other relief that the Court deems just and proper.

15 **SECOND CAUSE OF ACTION**

16 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
17 **Act**

18 **47 U.S.C. §227 et seq.**

- 19 • As a result of Defendant's willful and/or knowing violations of 47
20 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to
21 and request treble damages, as provided by statute, up to \$1,500, for
22 each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47
23 U.S.C. §227(b)(3)(C).
24 • Injunctive relief.
25 • Any and all other relief that the Court deems just and proper.

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1 **DEMAND FOR JURY TRIAL**

2 Please take notice that Plaintiff demands a trial by jury in this action.

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5 Date: June 16, 2015

MARTIN & BONTRAGER, APC

6 By: /s/ Nicholas J. Bontrager
7 Nicholas J. Bontrager
8 Attorneys for Plaintiff
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